



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

**FILED**

06-04-07

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In the Matter of Application of  
CALIFORNIA-AMERICAN WATER  
SERVICE COMPANY (U 210 W) for an  
order authorizing it to increase its rates for  
water service in its Los Angeles District to  
increase revenues by \$2,020,466 or 10.88% in  
the year 2007; \$634,659 or 3.08% in the year  
2008; and \$666,422 or 3.14% in the  
year 2009.

A.06-01-005  
(Filed January 9, 2006)

**REPLY COMMENTS  
OF THE DIVISION OF RATEPAYER ADVOCATES  
ON PHASE ONE PROPOSED DECISION**

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**I. INTRODUCTION**

Pursuant to Rule 14.3 of the Commission's Rules of Practice and Procedure (Rules), the Division of Ratepayer Advocates (DRA) submits these Reply Comments on the 5/7/07 Proposed Decision adopting the revenue requirement for California-American Water Company's (Cal-Am's) Los Angeles District (Proposed Decision or PD).

DRA responds to the Comments on the Proposed Decision filed by Cal-Am on May 29, 2007.<sup>1</sup> DRA also notes that California Water Service Company and California Water Association filed Motions For Party Status,<sup>2</sup> with their Comments attached.<sup>3</sup> In a

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<sup>1</sup> Comments of California-American Water Company on the Proposed Decision of Administrative Law Judge Walwyn (May 29, 2007) (Cal-Am Comments). DRA also filed Comments on the PD. Comments of the Division of Ratepayer Advocates on Phase One Proposed Decision (May 29, 2007) (DRA Comments).

<sup>2</sup> Motion of California Water Service Company For Party Status (May 29, 2007) (CWS Motion); Motion of California Water Association For Party Status (May 29, 2007) (CWA Motion).

<sup>3</sup> Comments of California Water Service Company on Proposed Decision of ALJ Walwyn (May 29, 2007) (CWS Comments); Comments of California Water Association on Proposed Decision of ALJ Walwyn (May 29, 2007) (CWA Comments). Both CWS and CWA urge the Commission to reject the PD to the extent that it addresses the impact of WRAM on Cal-Am's return on equity (ROE). *See, e.g.*, CWS (continued on next page)

concurrent filing, DRA opposes the motions of CWS and CWA as being untimely.<sup>4</sup>

DRA does not address the allegations in CWS' and CWA's comments directly, but note that their arguments are substantially similar to those of Cal-Am.

## **II. RETURN ON EQUITY**

### **A. The Impact Of WRAM On Return On Equity Is Appropriately Addressed In The PD**

Cal-Am's arguments about legal error and the inappropriateness of addressing return on equity (ROE) in Phase I, and in this general rate case, are merely post-hoc attempts to change the outcome of this issue. As discussed below, Cal-Am could have raised these supposed legal and procedural infirmities earlier. There has been no change in circumstance that would merit consideration of these arguments now, with the exception that Cal-Am is now faced with a PD with analyses and conclusions that Cal-Am perceives as detrimental to the company.

Cal-Am first argues that whether an ROE adjustment should be made should have been considered in Phase II of this proceeding. Yet Cal-Am has known that a PD addressing the impact of a WRAM on ROE would be issued as part of Phase I, and does not claim to have previously objected. Furthermore, DRA and Cal-Am submitted and served its settlement agreement on rate design issues on or about December 22, 2006.<sup>5</sup>

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Comments at 2-3; CWA Comments at 2-3.

<sup>4</sup> Opposition of the Division of Ratepayer Advocates to Motions for Party Status Filed By California Water Service Company and the California Water Association (May 29, 2007) (DRA Opposition).

<sup>5</sup> Settlement Agreement as to Rate Design Issues Between the Division of Ratepayer Advocates and California-American Water Company (dated December 22, 2006) (Rate Design Settlement). The Rate Design Settlement reflects the parties' agreement on a pilot program for conservation rates in Cal-Am's Los Angeles District that includes increasing block rates with a seasonal adder for residential customers, and a single quantity rate with a seasonal adder for general metered service non-residential customers. Rate Design Settlement at 2-3. DRA and Cal-Am only submitted the document for the evidentiary record and served it on all parties of record, but did not file the document because the lack of an adopted revenue requirement and cost of capital have thus far precluded the parties from developing and providing the specific conservation rates that would result from the parties' agreement. After the Commission adopts a revenue requirement, DRA and Cal-Am will be able to submit a final settlement with specific conservation rates upon which parties will be able to comment.

The specific WRAM that parties propose to implement has therefore been in the record and available for analysis for several months.

Strangely enough, Cal-Am also argues essentially that the ROE/WRAM issue should never even have been in this GRC. Cal-Am now claims that this issue is a “sweeping policy decision,” a “case of first impression with far-reaching policy implications for the entire water industry” that should be handled in another proceeding such as the Conservation OII (I.07-01-022).<sup>6</sup> Yet this is the first time that Cal-Am has so argued. Furthermore, while the Conservation OII was opened on January 11, 2007, Cal-Am has since filed GRC applications for four districts (Sacramento, Larkfield, Coronado, and Village, consolidated into one proceeding) in which the Commission is now addressing new conservation rate and WRAM proposals of Cal-Am.<sup>7</sup> The veracity of Cal-Am’s claims that the ROE/WRAM issue should be addressed elsewhere is belied by the fact that the company has yet to propose moving the ROE/WRAM issue in Cal-Am’s new GRCs into the Conservation OII.

**B. A Reduction In ROE Due To WRAM Is Supported By The Record And Commission Precedent**

Contrary to Cal-Am’s claims, the PD does not mischaracterize Commission precedent. The Commission has stated clearly that revenue adjustment mechanisms reduce risk. While the cases discussed in the PD may not have specified the numerical adjustment associated with a ratemaking mechanism that lowers risk, they clearly concluded that a decrease in risk should be counted as a factor in the ROE ultimately adopted.

Cal-Am also claims that “the PD’s risk assessment substantially overstates the WRAM’s risk reduction potential.”<sup>8</sup> Cal-Am asserts that its “current level of risk will be increased by the conservation rate design under consideration in the second phase of this

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<sup>6</sup> Cal-Am Comments at 4.

<sup>7</sup> See A.07-01-036 et al.

<sup>8</sup> Cal-Am Comments at 5.

proceeding, and the purpose of the WRAM and MCBA is to offset those risks.”<sup>9</sup>

However, these new ratemaking mechanisms go beyond simply compensating for the risk increased by the conservation rate design, and also reduce the risk associated with revenue fluctuations resulting from weather-related factors affecting customer demand.

### **C. Interim ROE Adjustment**

Because, as the PD articulates, the record reflects that a company’s cost of capital should reflect the decrease in risk associated with a WRAM, Cal-Am’s conservation rates and WRAM should not be implemented without an adjustment. If the Commission determines that the appropriate ROE adjustment should be considered in the Conservation OII (or another proceeding), the Commission should nevertheless conclude that adoption of a WRAM merits a downward adjustment to Cal-Am’s ROE. The Commission should therefore implement the 50 basis point adjustment as an interim adjustment until it reconsiders the appropriate level of adjustment.<sup>10</sup>

### **III. IF AN INFRASTRUCTURE SURCHARGE IS ADOPTED, THE REQUIREMENTS OF THE PD ARE APPROPRIATE**

Cal-Am strenuously objects to the DSIC that the Proposed Decision would adopt in lieu of Cal-Am’s ISRS. Cal-Am claims that the DSIC would be more detrimental than maintaining the traditional regulatory process for replacing infrastructure.<sup>11</sup> The limitations that the PD would impose in conjunction with its form of an infrastructure

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<sup>9</sup> Cal-Am Comments at 5-6.

<sup>10</sup> As a further alternative, the Commission could make the ROE adjustment subject to later true-up. The Commission has frequently used this approach when the final disposition of an issue is delayed. For example, if final water rates are not adopted in a GRC by the beginning of the test year, the Commission grants interim rates subject to true-up according to the Public Utilities (PU) Code, which provides: “These interim rates shall be subject to refund and shall be adjusted upward or downward back to the interim rate effective date, consistent with the final rates adopted by the commission.” PU Code § 455.2(b). As another example, when it became clear that the proceedings to adopt unbundled network element (UNE) rates for SBC California (now AT&T California) would be protracted, the Commission adopted interim UNE rates, and engaged in a “true-up” phase after final rates were adopted. D. 05-03-026, 2005 Cal. PUC LEXIS 106. Finally, the Commission authorized PG&E to make a contribution to its pension trust for calendar year 2006, and to recover the pension contribution in rates effective January 1, 2006, subject to refund. D.05-12-046.

<sup>11</sup> Cal-Am Comments at 19.

surcharge are borne of Cal-Am's own circumstances, however. Cal-Am has not undertaken the comprehensive long-term infrastructure planning that could allay concerns about lessened Commission oversight. In the absence of such a plan or other vehicle for assuring the Commission that an entirely new regulatory approach will be implemented as intended, it is reasonable and prudent for the Commission to impose additional limitations or requirements. While DRA continues to question the need for any infrastructure surcharge mechanism, DRA recognizes that the DSIC crafted by the PD that implements a pilot surcharge program, subject to certain conditions, would be a balanced approach in furtherance of the Commission's Water Action Plan.

#### **IV. CONCLUSION**

For the reasons discussed above, DRA urges the Commission to adopt the Proposed Decision with the modifications discussed herein and in DRA's Opening Comments on the PD.

Respectfully submitted,

/s/ NATALIE D. WALES

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June 4, 2007

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of “**REPLY COMMENTS OF THE DIVISION OF RATEPAYER ADVOCATES ON PHASE ONE PROPOSED DECISION**” in **A.06-01-005** by using the following service:

☒ **E-Mail Service:** sending the entire document as an attachment to all known parties of record who provided electronic mail addresses.

☐ **U.S. Mail Service:** mailing by first-class mail with postage prepaid to all known parties of record who did not provide electronic mail addresses, if any.

Executed on **June 4, 2007** at San Francisco, California.

/s/ Nelly Sarmiento

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Nelly Sarmiento

**N O T I C E**

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